THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.8440 of 2001

Dated : 25.07.2007

Between:

Pekati Satyanarayana Reddy S/o Pulla Reddy and another.

..... PETITIONERS

And:

The General Manager, Nizam Sugars Limited,
Shakkar Nagar, Bodhan, Nizamabad District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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ORDER:

Petitioners claim to have purchased the land admeasuring Acs.11.26 cents in Sy.No.167 of Kodicherla village, Kotagiri Mandal, Nizamabad District, under two registered sale deed dated 20.05.2000, after thorough verification about the title of their vendor and the village records. Thereafter, petitioners gave an application to the concerned authority for mutation of their names as provided for under the provisions of Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971, and accordingly, their names were mutated in the village records on 15.01.2001 and also pattadar passbooks were also issued. However, to their surprise and dismay, the first respondent-Nizam Sugars Limited,

issued a tender schedule dated 06.04.2001 proposing to auction various land, including the land in question. Questioning the same, this writ petition is filed.

This Court, while issuing rule nisi, directed the respondents not to auction the land in question until further orders.

The first respondent filed a counter-affidavit stating that the land in question originally belonged to Government and the first respondent purchased the same during the year 1946-47, after paying upset price, and thus it has become the absolute owner of the land in question. It is also stated that the crucial period to establish title or possession in respect of the land in question is 1954-55, during which period kasrapahani was issued in favour of the first respondent and the subsequent entries, if any have no relevance.

Heard the learned counsel for both the parties.

The main grievance of the petitioners is that without issuing any notice or initiating any proceedings under the relevant provisions of law, the respondents have straight away issued the tender schedule despite the fact that petitioners are having title over the land in question.

Reiterating what is stated in the counter-affidavit, learned Standing Counsel appearing for the respondents submitted that the crucial date to decide the title over the land in question is 1954-55 when the kasrapahani was prepared and the entries made subsequent thereto have no relevance and petitioners cannot claim any title based on the subsequent entries.

It appears petitioners and their vendor are in possession of the land in question right from 1955-56. The pahanies filed for the years 1955-56 and 1999-2000 show the name of the petitioners' vendor as the pattadar and possession of the land in question. However, as the dispute between the parties relates to title, this Court, sitting under Article 226 of the Constitution of India, cannot decide the said dispute,

and it shall be decided by a competent authority. Without deciding the said dispute, the respondents cannot proceed to auction the land in question.

Accordingly, the writ petition is allowed and the impugned tender schedule dated 06.04.2001, insofar as the land admeasuring Acs.11.26 guntas in Sy.No.167 is concerned, is hereby quashed. The petitioners are hereby directed to exhaust the remedies that are available under law. There shall be no order as to costs.

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sh 25.07.2007